



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LUPIN LTD.

Plaintiff,

- against -

SALIX PHARMACEUTICALS, INC. et al.

Defendants.  
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22-CV-7656 (JHR) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

This order resolves the parties' motions for issuance of letters rogatory to obtain discovery from third parties outside the United States. (See Dkt. 81, 84, 86, 88, 90.)

1. Salix moves for issuance of requests to two entities – Fabbrica and Rohner. Lupin has not filed opposition to Salix's motion. The Court has reviewed the motion papers and proposed requests and finds that they are warranted and appropriate. Accordingly, Salix's motion is granted. The Court will issue the requests but will first provide Salix with an opportunity to revise language if they so choose based on the Court's directive below with respect to Lupin's requests. If Salix wishes the Court to issue the requests without taking that opportunity, it shall so notify the Court in writing by January 24, 2024.

2. Lupin moves for issuance of requests to four entities – Fabbrica and Rohner, as well as Salix suppliers Olon and Alfasigma. Salix opposes issuance of requests to Olon and Alfasigma, and opposes language in all of the requests as argumentative and insufficiently neutral.

3. The Court agrees that Lupin's draft requests are improperly argumentative and must be revised to employ neutral language. Lupin shall use the language employed by Salix in its requests, unless Lupin proposes alternative language to which Salix agrees, in which case Salix may revise its requests to employ the same language. If the parties cannot agree upon common neutral language after good faith meeting and conferring, Salix's language as it currently appears shall be used in place of Lupin's language as it currently appears. After the meet and confer process is complete, the parties shall submit revised requests.

4. The Court denies without prejudice Lupin's motion with respect to Olon and Alfasigma. Lupin's "pretext" theory is purely speculative at this juncture (and of questionable relevance), and the paragraphs of the complaint cited by Lupin neither allege any such theory or implicate third-party suppliers, let alone Olon or Alfasigma. Further, Salix itself would be the most likely source of documents and information relevant to Lupin's theory. In the event that discovery from Salix or other sources provides a factual basis for Lupin's theory sufficient to support requests to Olon and Alfasigma, Lupin may renew its motions with respect to them at that time.

5. In sum, Salix's motion at Dkt 81 is granted; Lupin's motions at Dkt. 86 and 90 are granted, subject to revision of the requests as set forth above; and Lupin's motions at Dkt. 84 and 88 are denied without prejudice.

The Clerk of Court is respectfully terminate those five motions.

SO ORDERED.



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ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: January 19, 2024  
New York, New York

Copies transmitted this date to all counsel of record.